

**Central Administrative Tribunal
Principal Bench**

OA No.4413/2011

Reserved on : 25.07.2018
Pronounced on : 30.08.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Arun R.S., S/o Radhakrishnan K.M.
Aged 28 years, Director
Manipur Zoological Garden, Imphal
Residing permanently at Kailas House
Thalakulathoor P.O., Kozhikode
Kerala-673317.Applicant

(By Advocate: Shri Ajesh Luthra)
Vs.

1. Union of India, represented by the Secretary to Government of India, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi -110003.
2. Secretary, Department of Personnel and Training, Ministry of Public Grievance and Pension, New Delhi-110001.
3. Director, Indian Forest Service, Ministry of Environment and Forests, Pariyavaran Bhavan, CGO Complex, New Delhi-110003.
4. State of Kerala, represented by the Chief Secretary to Government of Kerala, Secretariat, Trivandrum-695001.
5. State of Manipur, represented by the Chief Secretary to Government of Manipur, Imphal-795001.
6. State of Tripura, represented by the Chief Secretary to Government of Tripura, Agartala-.

7. State of Tamil Nadu, represented by the Chief Secretary to Government of Tamil Nadu, Chennai-400001.
8. State of Karnataka, represented by the Chief Secretary to Government of Karnataka, Bengaluru-
9. State of Uttarakhand, represented by the Chief Secretary to Government of Uttarakhand, Dehradun-246001.
10. State of Madhya Pradesh, represented by the Chief Secretary to Government of Madhya Pradesh, Bhopal-
11. State of Rajasthan, represented by the Chief Secretary to Government of Rajasthan, Jaipur-
12. State of Maharashtra, represented by the Chief Secretary to Government of Maharashtra, Mumbai-
13. State of Andhra Pradesh, represented by the Chief Secretary to Government of Andhra Pradesh Hyderabad-
14. State of Himachal Pradesh, represented by the Chief Secretary to Government of Himachal Pradesh, Shimla-
15. Anjan Kumar B.N., Indian Forest Service, Officer Trainee, Office of the Divisional Forest Officer, Mananthavady, Wayanad, Kerala.
16. Ms.T.Uma, ADCF to Konni Division, O/o PCCF, Govt. of Kerala, D/o Forests, Vazhuthacaud, Thiruvananthapuram 695014.
17. Sreenatha N, ACF, Surat, O/of PCCF Govt. of Gujarat, Deptt. of Forests, Block No.14, Jiwraj Bhai Mehta Bhavan, Gandhinagar-382010.
18. Vinay Kumar, ACF, O/o PCCF, Govt. of Uttarakhand, Deptt. of Forests, Dehradun.

19. Ms. Kamla K. ACF, O/of CF, Mysore Circle, Mysore, O/o PCCF, Govt. of Karanataka, Arnya Bhavan, Hallenshwaram, Bangalroe560003.
20. Rahul V.C., ACF, O/o PCCF, Govt. of Tamil Nandu D/o Forests, 79 E/81, Anna Salai: Chennai600006
21. Anupam Sahay, ACF, Dewas (T) , O/o PCCF, Govt. of Madhya Pradesh, Saipura Bhavan, Bhopal 462004.
22. V S.N. V. Prasad, Undergoing training in Bhadrachalam South, O/o PCCF, Govt. of Andhra Pradesh Deptt. of Forests, Saifabad, Hyudrabad500004.
23. Pankaj Kumar, ACF, O/o PCCf, Govt. of Uttarakhand, Deptt. of Forests, Dheradun.
24. Prashant Kumar Singh, ACF, Harda (T) O/o PCCF, Govt. of Mdaya Pradesh Saipura Bhavan, Bhopal 462004.
25. Manoj Kumar Shukla , ACF, O/o PCCF, Govt. of Uttar Prakesh 17, Rana Pratap Marg, Lucknow, 226-001.
26. R. Senthilkumaran, ACF, Dangs, O/o PCCF, Govt. of Gurjarat, Deptt. of Gorest, Blcok No.14, Jiwraj Bhai Mehta Bavan, Gandhinagar 382010.
27. Ram Chandra ERajguru, ACF, O/o PCCF, Govt.of Uttarakhand, Deptt of Forests, Dehradun
28. Karthick V, ACF, O/o PCCF, Govt.of Orissa, Deptt. of Forests 2nd & 3rd Floor, Janpath, Saheed Nagar, Bhubaneshwar 751007.
29. Agni Mitra, On probation, A& N Islands, O/o PCCF, A & N Administration, P O Chatham, Deptt of Forests, Port Blair-744101.
30. Ms. Kiran Bisen ACF, Jabalpur (T), O/o PCCF, Govt.of Madya Pradesh, Saipura Bhavan, Bhopal 462004.

31. Abhishek Kumar Singh, ACF, O/o PCCF, Govt. of Chattishgarh, Deptt. o Forests, Raipur.
32. Mohit Kumar Nigam, ACF, O/o PCCF, Govt.of Rajasthan, Deptt of Forests, Van Bhavan, Jaipur - 302-009.
33. Ms. Harini V, DFO, Udaipur Forest Divsion, O/o PCCf, Govt. of Rajasthan, Deptt. of Forests, Van Bhavan, Jaipur 302-009.
34. Sunil, ACF, O/o PCCF, Govt. of Rajasthan, Deptt of Forests, Van Bhavan , Jaipur 302-009
35. Nameirakpam Jaswant, ACF , O/o PCCf, Govt. of Sikkim, Deptt of Forests, Deorali: Gangtok 737-102.
36. Shashi Shankar, ACF, O/o PCCF, Govt.of Rajasthan, Deptt of Forests, Van Bhavan, Jaipur- 302-009.
37. R. Adalarasan, DFO, Kozhikode division, O/o PCCF, Govt.of Keral, D/o Forests, Vashuthacaud, Thiruvananthapuram 695014
38. T.V. Karikalan, ACF, O/o CF, Mysore Circle, Mysore, O/o PCCF Govt. of Karanataka, Arnya Bhavan, Hallenshwaram, Bangalore 560003
39. R.K. Amarjit singh, DFO, Tengnopal Forest Division, O/o PCCF, Govt.of Manipur, Deptt of Forests Sanjenhong, Imphal 795011
40. Vivekanand Jha, On Probation (Korba Division), O/o PCCF, Govt.of Chattishgarh, Deptt. of Forests, Raipur
41. Thejasvi S. N. , ACF O/o PCCF, Govt. of Tamil Nandu D/o Forests, 79E/81, Anna Salai: Chennai 600006.
42. Navneet Singh Bains, ACF, O/o PCCF, Govt. of Punjab, Deptt of Forests, 17, Bays Building Sec. 17: Chandigarh 160-017.

43. Tawheed Ahmad, Deva, ACF, Srinagar Circle, O/o PCCF, Govt.of Jammu Kashmir, Forest Complex, Exchange Raod, Jammu 180001
44. M S. Arun Mahesh Babau, ACF, O/o PCCF, Govt.of Orissa, Deptt of Forests 2nd & 3rd Floor, Janpath, Saheed Ngar, Bhubaneswar 751007.
45. Prakash Chand Gogineni, ACF, O/o PCCF, Govt. of Orissa, Deptt. of Forests 2nd & 3rd Floor, Janpath Saheed Ngar, Bhubaneshwar 751007.
46. Prateek Bhatia, ACF, O/o PCCF, Govt.of assam, Deptt. of Forests, Guwahati 781001.
47. Anisha Kalkoor M, On Probation, A & N Islands, O/o PCCF, A. & N administration, P O Chatham, Deptt of Forests, Port Blai-744101.
48. Kamdi Hemand Bhaskar, ACF, O/o PCCF, Govt. of Nagaland, Deptt of Forests,Kohima 797-001.
49. Kuldeep, DCF (Botanical Garden and Nature Reserve), Chandigarh Admiistration, Deptt of Forests 17, Bays Building: Sec. 17, Chandigarh 160-017.
50. Saurabh Sharma , ACF, Mizoram , O/o PCCF, Govt. of Mizoram, Deptt. Of Forests, Aizawal 796001.

51. Paras Mani Tripathi, Attached to DFO Aalo, Arunachal Pradesh, O/o PCCf, Deptt. of Forests, Govt.of Arunachal Pradsh, Itangar 791101
52. Ms Minakashi Prasad, ACF, O/o PCCF, Govt. of West Bengal, Forest Department, Writers Bulding, Calcutta -700-01.
53. N. Palanikanth, DCF (Wildlife), NDH, Silavasa, O/O PCCF, Govt.of Dadra & Nagar Heveli, Silvasa-396-230

54. Ms. C. Meenkashi, Inter cadre deputation to Tamil Nandu, O/o PCCF, Govt.fof Tamil Nandu D/o Forests, 79E, 81 Anna Salai :PCheenai 600006
55. Sriram J. ACF, O/o PCCF, Govt.of Chattishgarh, Deptt. of Forests, Raipur,
56. B. Mohandaas, ACF, Chenab Circle, O/o PCCF, Govt.of Jammu Kashmir, Forest Complex Exchange Road, Jammu 180 001.
57. T. Mohan Raj, ACF , O/o PCCF Govt.of Rajasthan, Dept of Forests, Van Bhavan, Jaipur 302 009.
58. Balaji Kari, ACF, O/o PCCF, Govt.of Rajasthan, Deptt of Forests, Van Bhavan Jaipur 302-009
59. Rajiv Dhiman, ACF, O/o PCCF, Govt. of Uttarakhand, Deptt of Forests, Dehradun
60. Akash Kumar Verma, ACF, O/o PCCF, Govt. of Uttarakhand, Deptt of Forests, Dehradun
61. Sanjaya Kumar Swain , ACF, O/o PCCF, Govt. of Orissa,Dept of Forests 2nd and 3rd Floor Janpath, Saheed Ngar, Bhubanewshwar 751007
62. Gopinath R, ACF, South Forest Division, Tuglakabad, New Delhi ,O/o PCC , Govt. of NCT of Delhi, Uderhill Road, Delhi-6
63. C. Vidhyasgar, ACF, Mizoram, O/o PCCF, Govt.of Mizoram, Deptt of Forests Aizawal 796001
64. Manivasagan S, On probation (South Sarguja Division,), O/o PCCF, Govt.of Chattishgarh, Deptt. of Forests, Raipur
65. Ms. Banumathi G, ACF, O/o PCCF, Govt.of Tripura, Deptt of Forests P O Kunjvan, Agartala 799001.
66. Madhu V Raj, ACF, Hoshangabad (T), O/o PCCF, Govt.of Madhya Pradesh, Saipura Bhavan, Bhopal
67. V. Baskaran, Attached Office, Hazaribagh east Division, O/o PCCF, Govt. of Jharkhand, Deptt of Forests, Ranchi.

68. Ms. Yasodha K, ACF, Goa, Prl. CCF Office, D/o Forests Janta House, 3rd Floor, Panaji -303001
69. T. Karuppasamy, ACF, Chhotauddepur, Vadodara, O/O PCCF, Govt.of Gujarat, Deptt of Forests, Block No. 14, Jiwraj Bhai Mehta Bhavan Gandhinagar, 382010
70. S. Prabhu , ACF, O/o PCCF, Govt.of Tripura, Deptt. Of Forests P O Kunjvan , Agartala 799-001
71. Kirupasankar M, on Probation, Attached to DFO, Dharamshala, O/o PCCF, Govt.of Himachal Pradesh Talland, Shimla 171002
72. Sudhanshu Sekhar Khora, ACF, O/o PCC, govt.of Orissa, Deptt. of Forest 2nd & 3 rd Floor, Janpath, Saheed Ngar, Bhubaneswar 751007
73. Arunlrajan P, ACF Mizoram , O/o PCCF, Govt.of Mizoram, Deptt of Forests Aizawl 796001.
74. Suratna Sur Shan Sher Sherpa, ACF, O/o PCCF, Govt.of West Bengal, Forest Department, Writers, Bulding, Calcutta -7000-001
75. Dharam Singh Meena, ACF, O/O PCCF, Govt. of Uttrakahand, Deptt of Forests, Dehradun
76. Wahule Pradeepchandra P., Attached to DFO, Bomdilla , Arunachal Pradesh, O/o PCC, Deptt of Forests, Govt. of Arunachal Pradesh Itanagar 791101.
77. T. Aochuba, ACF, O/o PCC, Govt. of Nagaland, Deptt of Forests, Kohima, 797001
78. Purushothama P., ACF, Junagadh, O/o PCCF, Govt. of Gujarat, Deptt of Forest, Block No. 14, , Jiwraj Bhai Mehta Bhavan Gandhinagar 38010
79. Nianamalai R, ACF (P) O/o PCCF, Govt. of Meghalaya Deptt of Forests &Environment, Sylvan House Lower Lackumierces, Shillong 793001

80. Shivanand S Talwar, ACF, O/o PCCF, Govt. of Tripura, Deptt. of Forests P O Kunjvan , Agartala 799001.

81. Arun Kumar R., ACF, O/o PCCF, Govt.of Tripura, Deptt. of Forests, P O Kunjvan, Agartala 799 001

82. Millo Tasser, ACF, Arunachal Pradesh, O/o PCCF, Deptt of Forests, Govt.of arunachal Pradesh Itanagar 791101. Respondents.

(By Advocates: Ms. Aishwarya Dobhal for Shri Hilal Haider and Shri Vidya Sagar for Shri H. K. Gangwani.

: O R D E R :

Justice L. Narasimha Reddy, Chairman:

The applicant was selected in the Indian Forest Service (IFS) on the basis of his performance in the examination conducted by the UPSC in the year 2008. He was ranked 31st in the merit list. His home State is Kerala. In the context of allocation of cadre, he opted for Kerala, Karnataka, Tamil Nadu, Uttarakhand, Himachal Pradesh, Madhya Pradesh, Rajasthan, Andhra Pradesh and Maharashtra, in that order.

2. Through notification dated 22.04.2010, Ministry of Environment and Forests, Government of India, allocation was made and the applicant was allotted to IFS cadre of Manipur-Tripura. Taking objection to the same, the applicant filed a representation to the respondents. The respondents issued communication dated 09.11.2011 stating that the request made by the

applicant for change of cadre cannot be considered at that juncture. Challenging the said communication, the applicant filed this OA.

3. It is stated that the 200-point running vacancy based roster for the IFS cadre for the state of Kerala was not prepared by the time the allocation was made, and had it been made, quite a good number of vacancies would have been available for allocation of candidates who are natives of the same State, including the applicant.

4. It is also pleaded that all the three vacancies available in the cadre of Kerala were filled only by outsider candidates, in clear violation of the principle of two outsiders and one insider.

5. The respondents filed counter affidavit opposing the OA. It is stated that the 200-point running vacancy based roster was prepared much prior to the selections and appointments in question, and there is no merit in the contention of the applicant. As regards, the allocation of candidates against three vacancies for the State of Kerala, it is stated that since no insider OBC candidate was available, all the three vacancies were filled with outsider candidates. An objection is also raised about limitation.

6. The private respondents were also impleaded in the OA. Some of the private respondents have filed their counter affidavits. They contend that the allocation made in their favour cannot be disturbed at this stage, and virtually repeated the grounds urged on behalf of the Union of India.

7. We heard Shri Ajesh Luthra, learned counsel for the applicant and Ms. Aishwarya Dobhal for Shri Hilal Haider and Shri Vidya Sagar for Shri H. K. Gangwani, learned counsel for the respondents.

8. At the outset, the objection about limitation raised by the respondents needs to be considered. The record discloses that soon after the allocation was made, the applicant made a representation ventilating his grievance, and reply thereof was given on 09.11.2011. The OA was filed without any loss of time thereafter. We are convinced that the OA is filed within the period of limitation.

9. Coming to the merits of the OA, we are not at all impressed by the contention advanced by the applicant about the preparation of 200-point running vacancy based roster. No material, worth its name, is placed before us in that context. The statement made by the

Government that the exercise in that behalf was completed in the earlier years itself, remains unrebutted.

10. As regards, the year in question, three vacancies were available in the IFS cadre for the State of Kerala. It is not in dispute that the guidelines issued by the DoP&T from time to time mandate that the ratio of allocation to the State cadre shall be 2:1 between outsiders and insider respectively. On this basis, the allocation should have been of two outsiders and one insider. Admittedly, this was not adhered to. In the counter affidavit filed on behalf of respondent Nos.1 to 3, the only statement made in this behalf is as under:-

“1. The allocation of vacancies worked out by the Ministry with Respect to the cadre allotment in 2008, show that there were three vacancies in 2008 in the Kerala cadre. As per DoP&T guidelines regarding reservation of vacancies, two vacancies were earmarked for OBC outsider. There was no insider OBC vacancy for the year. Thus, the applicant is not eligible for the allotment to the Kerala cadre of Indian Forest Service.”

11. Barring this cryptic statement, no details are furnished. It was not even mentioned, much less demonstrated that the insider vacancy was earmarked for OBC. Such reservation is said to be as regards two outsider vacancies. The applicant is a general category candidate. No rule or notification which enables such a diversion of insider vacancy to outsiders, is cited.

12. The record discloses that the available candidates were not sufficient to fill the vacancies for that year, and accordingly some posts were kept vacant in the cadres of certain States. That being the case, there was no basis to fill all the three vacancies in the Kerala cadre with outsider candidates alone. This anomaly needs to be addressed.

13. One aspect which has to be taken into account is that there are some candidates belonging to Kerala in the select list of the year, who are more meritorious than the applicant. They deserve to be given opportunity in the context of filling the insider vacancy for that year. Therefore, even while the Tribunal is prepared to accept the contention that the filling up of vacancies earmarked for insider through an outsider was not proper, the direction cannot be given to fill that vacancy through the applicant alone.

14. Another aspect is that if the rules, or the relevant notifications or memoranda issued by DoP&T permit, the insider vacancy filled with outsider can be replenished in the next available recruitment by allotting one more insider vacancy in the Kerala Cadre. In such an event, the eligible insider candidate of the select list can be accommodated against the vacancy so allocated in the

subsequent recruitment, duly protecting his seniority and making him or her part of the IFS cadre of the State, and assigning appropriate place in the seniority list. This will avoid the replacement of the outsider who was improperly appointed against the insider vacancy during the earlier recruitment, and the cascading effect thereof in other cadres. This however is purely optional for the respondents.

15. Therefore, the OA is allowed, and –

- (a) the allocation of outsider candidate against the one of the vacancies of IFS Cadre of Kerala State through order dated 22.04.2010, is set aside;
- (b) the respondent Nos.1 to 3 shall identify the vacancy that was otherwise to be filled by insider, and the insider candidate who was entitled to be posted against that;
- (c) if it is otherwise permissible in law, the exercise indicated in para 14 shall be undertaken;
- (d) if that alternative is not possible, the outsider candidate who was appointed against the insider vacancy of the year shall be shifted to

the cadre, which he was otherwise entitled to, and the fact that all the vacancies available in that year were not filled shall be taken into account;

(e) the exercise in this behalf shall be completed within a period of four months from the date of receipt of copy of this order.

16. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/